

BEFORE
THE PUBLIC SERVICE COMMISSION
OF SOUTH CAROLINA
DOCKET NO. 2002-270-T

IN RE: Petition of the Office of Regulatory)	
Staff to Revoke the Certificate of)	
Public Convenience and)	PETITION FOR RULE TO
Necessity of Edward J. Arthur)	SHOW CAUSE
dba Last Mile Transport)	
For Failure to Maintain and File)	
Evidence of Insurance)	

The Office of Regulatory Staff, by filing this petition, would respectfully show and request of the Commission:

1. That the Public Service Commission of South Carolina (“the Commission”) is a state agency constituted pursuant to the laws of the State of South Carolina with its business offices located in Columbia, South Carolina; that the Commission is responsible for the regulation of motor vehicle carriers operating for compensation as set forth in S.C. Code Ann. §58-23-10 et seq. (1976 and Supp.2005); that the Office of Regulatory Staff (“ORS”) is charged with the duty to protect the public interest pursuant to S.C. Code Ann. Section 58-4-10, et seq. as enacted by 2005 S.C. Acts 175.

2. That Edward J. Arthur dba Last Mile Transport (hereinafter “Last Mile Transport”) is currently operating as a “motor vehicle carrier” as defined in S.C. Code Ann. §58-23-10(4) (Supp.2005) in that it owns, controls, operates, or manages motor propelled vehicles, not usually operated on or over rails, used in the business of transporting persons or property for compensation over improved public highways in this state.

3. That Last Mile Transport is subject to the jurisdiction of this Commission pursuant to S.C. Code Ann. §58-23-1010 et seq. (1976 and Supp.2005); further, that Last Mile Transport has submitted itself to the jurisdiction of the Commission by holding a Certificate of Public Convenience and Necessity as indicated in Attachment A. See Attachment A, Certificate of Public Convenience and Necessity issued by the Commission to Last Mile Transport on August 22, 2002.

4. That Last Mile Transport, upon receiving its Certificate of Public Convenience and Necessity, was found to be fit, willing and able to operate as a motor carrier by the Commission; that such authority found Last Mile Transport to be “familiar with all statutes and regulations, including safety regulations, governing for-hire motor carrier operations in South Carolina” and that Last Mile Transport “agree(d) to operate in compliance with these statutes and regulations” [26 S.C. Code Regs 103-133(4)(a) (Supp. 2005)]; further, that Last Mile Transport was “aware of the Commission's insurance requirements and the costs associated therewith” [26 S.C. Code Regs 103-133(4)(b) (Supp. 2005)].

5. That the Commission requires motor carrier applicants to procure and file with the Commission proper proof of insurance and that the insurance “must be kept in full force and effect and failure to do so is cause for the revocation of the certificate.” S.C. Code Ann. §58-23-910 (Supp.2005).

6. That the ORS was notified by the receipt of a Form K, “Uniform Notice of Cancellation of Motor Carrier Insurance Policies,” received by the ORS on or about June 16, 2006 from the Columbia Insurance Company that Last Mile Transport’s insurance policy with Columbia Insurance Company would be terminated at 12:01am on July 23, 2006. See Attachment B, Form K.

7. That as a result of the receipt of the Form K, the ORS contacted Last Mile Transport requiring that the Company provide evidence of insurance to the ORS within thirty (30) days as Last Mile Transport would no longer have insurance as required under S.C. Code Ann. §58-23-910 (Supp. 2005) on July 23, 2006. See Attachment B, Form K and Attachment C, Certified Letter of George Parker.

8. That Last Mile Transport has failed to respond or otherwise provide proof of insurance to the ORS as required by S.C. Code Ann. §58-23-910 (Supp.2005) and 26 S.C. Code Regs 103-171 (Supp.2005). See Attachment D, Affidavit of Jeanne Gordon.

9. That “either a failure to file evidence of insurance or surety bond or failure to keep all insurance or bonds in full force and effect shall be just cause for the Commission, without further evidence or hearing, to suspend its order granting authority or to suspend the certificate or any license issued to the motor carrier.” 26 S.C. Code Regs. 103-175 (Supp. 2005); further, that the insurance “must be kept in full force and effect and failure to do so is cause for the revocation of the certificate.” S.C. Code Ann. §58-23-910 (Supp. 2005).

10. That pursuant to 26 S.C. Code Regs. 103-240 (Supp. 2005):

The Commission may at any time, after notice and opportunity to be heard, suspend, revoke, alter, or amend any certificate, if it shall be made to appear that the holder has willfully violated or refused to observe orders, rules, or regulations prescribed by the Commission, provisions of the Motor Vehicle Carrier Law, or any other law of this State regulating motor carriers for hire and applicable to the holder of such certificate, or, if, in the opinion of the Commission, the motor carrier holding a Certificate of PC&N is not furnishing adequate service or it is no longer compatible with the public interest to continue said certificate in force, or, if in the opinion of the Commission, the motor carrier holding a Certificate of FWA is no longer furnishing adequate service, or said carrier no longer meets the fit, willing, and able criteria, or the motor carrier holding a charter bus certificate no longer meets the Commission's insurance requirements or the safety requirements of the Department of Public Safety, or the continuance of said certificates are not in conformity with the spirit and purpose of the law, provided, however, that this rule shall have no effect upon rules hereinbefore set forth which authorize suspension, revocation, alteration, or amendment of a certificate or of an order granting operating rights without hearing where certain conditions exist.

11. That “the Commission may, at any time, by its order, duly entered, after a hearing had upon notice to the holder of any certificate hereunder at which such holder shall have had an opportunity to be heard and at which time it shall be proved that such holder has willfully made any misrepresentation of a material fact in obtaining his certificate or willfully violated or refused to observe the laws of this State touching motor vehicle carriers or any of the terms of his certificate or of the Commission's proper orders, rules or regulations, suspend, revoke, alter or amend any certificate issued under the provisions of Articles 1 to 11 of this chapter.” S.C. Code Ann. §58-23-320 (Supp.2005).

12. That the address upon which the ORS served the letter attached hereto as Attachment A notifying Last Mile Transport that it was no longer in compliance with the Commission requirements concerning proof of insurance is the mailing address on file with the Commission and ORS and such address was provided by Last Mile Transport.

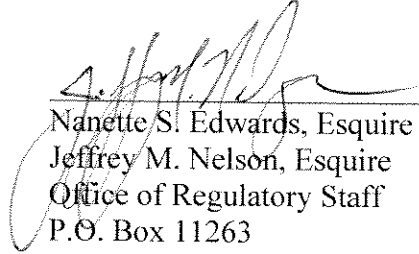
WHEREFORE, the ORS staff prays that the Honorable Commission:

1. Immediately suspend the effectiveness of the Certificate of Public Convenience and Necessity held by Last Mile Transport shown in Attachment A for its failure to file necessary proof of insurance forms pursuant to 26 S.C. Code Regs. 103-175 (Supp.2005);

2. Schedule and conduct a formal administrative hearing as soon as practicable to address disputed issues of fact and law regarding the Certificate which the ORS seeks to have revoked by the Commission in this action pursuant to 26 S.C. Code Regs. 103-175 and 103-240 (Supp.2005) and S.C. Code Ann. §58-23-320 (Supp.2005).

3. Following the formal administrative hearing, immediately rule to revoke the Certificate of Last Mile Transport in accordance with the authority provided the Commission under S.C. Code Ann. §58-23-320 and thereafter immediately enter a final written order canceling the Certificate of Public Convenience and Necessity held by Last Mile Transport;

4. For other appropriate action which the Commission may deem necessary.



Nanette S. Edwards, Esquire
Jeffrey M. Nelson, Esquire
Office of Regulatory Staff
P.O. Box 11263
Columbia, South Carolina 29211

September 6, 2006
Columbia, South Carolina



**Public Service Commission of South Carolina
Columbia, South Carolina**

Docket No. 2002-270-TOrder No. 2002-591Certificate No. 7264**CLASS C CHARTER**

**Certificate of Public Convenience and Necessity
For the Operation of
MOTOR VEHICLE CARRIERS**

NAME: Edward J. Arthur DBA **LAST MILE TRANSPORT**ADDRESS: 632 Amherst Street, Hartsville, SC 29550

is hereby authorized to furnish passenger service, by means of motor propelled vehicles, as follows:

BETWEEN POINTS AND PLACES IN SOUTH CAROLINA

RESTRICTED TO: SEVEN (7) PASSENGERS

COPY

THIS CERTIFICATE is issued upon finding by the Commission, that Public Convenience and Necessity require such operation, under the terms of the Motor Vehicle Carriers' Law (Sections 58-23-10 - 58-23-60 of the South Carolina Code of Laws, 1976, and amendments thereto), and,

CONDITIONED: That all motor vehicles operated by virtue of this Certificate shall be so operated in accordance with the said Motor Vehicle Carriers' Law and the Rules and Regulations issued thereunder, and,

CONDITIONED FURTHER: That neither this Certificate nor the rights granted herein shall be sold, assigned, leased, transferred, mortgaged, pledged, or otherwise hypothecated, unless first approved by the Commission.

DATED at Columbia, South Carolina, this 22nd day of August A.D., 2002.


Executive Director


Chairman

FORM K

UNIFORM NOTICE OF CANCELLATION OF MOTOR CARRIER INSURANCE POLICIES EXP N32728

Check type canceled: BI and PD ☒ Cargo ☐Filed with SOUTH CAROLINA PUBLIC SERVICE COMMISSION (Name of Commission) (hereinafter called commission)

This is to advise that under the terms of a policy or policies issued to:

EDWARD J. ARTHURDBA: LAST MILE TRANSPORT
of 632 ANHERST ST.

Name of Motor Carrier

HARTSVILLE SC
29550

(Address of Motor Carrier)

by COLUMBIA INSURANCE COMPANY

(Name of Company)

of 3024 HARNEY STREET OMAHA, NEBRASKA 68131
(Address)

said policy or policies, including any and all endorsements forming a part thereof or certificates issued in connection therewith, is (are) hereby canceled effective as of the 23 day of JUL, 2006, 12:01 a.m., standard time at the address of the Insured as stated in said policy or policies provided such date is not less than thirty (30) days after the actual receipt of this notice by the commission.


(Signature of Insurer)Insurance Company File No. 71 APN365716

(Policy No.)

This form determined by the National Association of Regulatory Utility Commissioners and promulgated by the Interstate Commerce Commission pursuant to the provisions of Section 202(b) (2) of the Interstate Commerce Act (49 U.S.C., sec. 302(b) (2)). MC 2445 (Ed. 4-68)

Attachment B

C. DUKES SCOTT
EXECUTIVE DIRECTOR

P.O. Box 11263
Columbia, S.C. 29211



Phone: (803) 737-0800
Fax: (803) 737-0801

DAN E. ARNETT
CHIEF OF STAFF

June 16, 2006

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Edward J. Arthur dba
Last Mile Transport
632 Amherst Street
Hartsville, SC 29550

RE: Public Service Commission Required Intrastate Insurance Filing

Dear Sir/Madam:

Pursuant to S.C. Code Regulation 103-170.1, all motor carriers regulated by the Public Service Commission must file evidence of current insurance. The Office of Regulatory Staff has received the following notice affecting your current insurance coverage:

Insurance Type:	Public Liability and Property Damage Insurance Policy No 71 APN365716
Issued by:	Columbia Insurance Company
Will be:	<u>CANCELLED EFFECTIVE 07/23/06 at 12:01 a.m.</u>

To remain in compliance with the Public Service Regulations, it is necessary that you file proof of current insurance coverage (**FORM E**) with the Office of Regulatory Staff prior to the above listed cancellation date. Proof of insurance can be mailed or faxed to:

S.C. Office of Regulatory Staff
Transportation Department
PO Box 11263
Columbia, SC 29211

Fax: 803-737-0801

****IMPORTANT** **IMPORTANT** **IMPORTANT****

If you have renewed your insurance with the same company or changed insurance companies, please contact our office to see if your insurance company has submitted a current Form E.

If you receive this letter and your company is no longer in business, please contact the Transportation Department at 803-737-0800 and request a Cancellation of Certificate Form.

If you fail to provide this information, you are ordered and directed to cease operations as of the above cancellation date. Operation without proper insurance is a violation of the law and you will be subject to all penalties as outlined in the S.C. Code of Law and Regulations.

Please contact the Transportation Department with any questions at 803-737-0800.

Sincerely,

L. George Parker
Program Manager
Transportation Department

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

Article Addressed to:

Edward J. Arthur dba
Last Mile Transport
632 Amherst Street
Hartsville, SC 29550

COMPLETE THIS SECTION ON DELIVERY

A. Signature [Signature] ☐ Agent
 B. Received by (Printed Name) [Signature] ☐ Addressee
 C. Date of Delivery [Signature]
 D. Is delivery address different from item 1? ☐ Yes
 If YES, enter delivery address below: ☐ No

3. Service Type ☒ Certified Mail ☐ Express Mail
☐ Registered ☐ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.
 4. Restricted Delivery ☐ Yes ☐ No

Article Number 7004 2510 0085 5751 9995
 (Transfer from service label)

US Form 3811, February 2004 Domestic Return Receipt 102595-02-M-154

BEFORE
THE PUBLIC SERVICE COMMISSION
OF SOUTH CAROLINA
DOCKET NO. 2002-270-T

August 17, 2006

IN RE: Petition of the Office of Regulatory)
Staff to Revoke Certificates of) AFFIDAVIT OF
Public Convenience and) Jeanne Gordon
Necessity of Certain Motor Carriers)

The Affiant, after having been first duly sworn, deposes and states as follows:

- 1) My name is Jeanne Gordon and I am employed by the Office of Regulatory Staff ("ORS") as Program Specialist for the Transportation Department.
- 2) My office is located at 1441 Main Street, Columbia, South Carolina, 29201 (Mailing Address: Post Office Box 11263, Columbia, South Carolina 29201).
- 3) My duties and responsibilities as Program Specialist for ORS include serving as custodian of records for business filings associated with motor vehicle carriers subject to the jurisdiction of the Public Service Commission ("PSC").
- 4) It is the regular business practice of ORS to maintain certain business records required to be filed by motor vehicle carriers that are subject to the jurisdiction of the PSC.
- 5) As a result of my duties and responsibilities, I have knowledge of the manner in which the books and records are kept and of any books or records which are not complete or which are not on file with ORS.
- 6) On July 23, 2006, I examined the business records on file with ORS.
- 7) I attest that the proof of insurance as required by 26 S.C. Code Regs 103-171 has not been filed with ORS by the following company as of August 15, 2006:

**Edward J. Arthur dba
Last Mile Transport
632 Amherst Street
Hartsville, SC 29550**

AND FURTHER THE AFFIANT SAYETH NOT.

Jeanne Gordon
Jeanne Gordon
Program Specialist, Transportation Department
Office of Regulatory Staff
P.O. Box 11263
Columbia, South Carolina 29211

Sworn and subscribed before me
this 16 day of August, 20 06

Susan Hauptmann
Notary Public for South Carolina
My Commission Expires: 08-17-07